

## **REMARKS/ARGUMENTS**

Claims 1-4, 8-12, 14, 15, 19-23, 25, 26 and 28 are pending in the present application. Claims 1-3, 14, 15, 25 and 26 have been amended, and Claims 13, 24 and 29 have been cancelled, herewith. Reconsideration of the claims is respectfully requested.

### **I. 35 U.S.C. § 112, Second Paragraph**

Claims 1-4, 8-15, 19-26 and 28-29 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. This rejection is respectfully traversed.

The Examiner noted various antecedent basis issues specifically with respect to Claims 1-3, 14, 15, 25 and 26. Applicants have amended such claims in accordance with the Examiner's stated interpretation of such claims.

Therefore the rejection of Claims 1-4, 8-15, 19-26 and 28-29 under 35 U.S.C. § 112, second paragraph, has been overcome.

### **II. 35 U.S.C. § 103, Obviousness**

Claims 1-4, 8-11, 13-15, 19-22, 24-26 and 28-29 stand rejected under 35 U.S.C. § 103 as being unpatentable over Nassar (European Patent Application No. EP 1096405 A2), hereinafter "Nassar" in view of Anderson et al. (U.S. Publication No. 2002/0178226), hereinafter "Anderson" in view of Lee et al. (U.S. Patent No. 6,263,358), hereinafter "Lee" and further in view of Bekkers (U.S. Publication No. 2004/0019509), hereinafter "Bekkers". This rejection is respectfully traversed.

With respect to Claim 1, it is urged that – and contrary to the Examiner's assertion – the cited Nassar reference does not teach automatic altering the downstream segments of a travel plan by a dynamic itinerary monitoring system, as currently alleged by the Examiner on page 6, paragraph 13 of the present Office Action dated September 6, 2007. The Examiner states that this claimed automatic altering step is taught by Nassar at col. 2, lines 35-40 and col. 6, lines 6-12 and 27-30. Applicants urge error in such assertion, as will now be shown in detail.

As to the Nassar cited passage at col. 2, this passage states that the travel intelligence central server *links* the traveler to a travel industry database *for purposes of the user changing their reservation*. Such linking by the travel intelligence central server does not describe that this server provides any type of automatic altering of downstream segments of a travel plan - and in fact describes that a user must manually make such changes.

As to the Nassar cited passage at col. 6, lines 6-12, this passage states that a content gateway *monitors/tracks* travel information found in various databases. This description of monitoring/tracking by the content gateway does not describe that this content gateway provides any type of automatic altering of downstream segments of a travel plan, as claimed.

As to the Nassar cited passage at col. 6, lines 27-30, this passage states that a sub-module of the content gateway makes service requests on behalf of the user. There is no mention that this sub-module provides any type of automatic altering of downstream segments. In fact, as further described by Nassar, this module only provides a user-assist functionality that assists a user in making user (i.e. manual) changes (Nassar col. 7, paragraph [0036]; col. 10, line 48 – col. 11, line 8; col. 12, lines 14-18). Quite simply, a technique for providing user assistance to make reservation changes does not teach a highly automated approach for altering downstream segments of a travel plan. The Nassar changes are not automated, but instead are made as directed by the user for which a change notification has been sent to (Nassar cols 11-12, paragraphs [0050] – [0054]).

Further with respect to Claim 1, such claim also recites “automatically contacting, by the dynamic itinerary monitoring system, at least one agency computing device to modify travel accommodations associated with the travel plan *in accordance with the altered downstream segments*” (emphasis added). As can be seen, a *second type of information is also modified* as a result of the automatic altering of the downstream segments. Claim 1 recites both: (i) downstream segments being altered (automatically), and (ii) travel accommodations are also modified in accordance with such altered downstream segments. The Examiner cites that same Nassar passage at col. 6, lines 27-30 (the second citation is actually col. 6, lines 27-43, which overlaps with the first cited Nassar passage at col. 6, lines 27-30) as teaching both of these altering/modifying steps – which is impermissible double counting, using a single teaching as teach two separate and distinct claimed operations. For example, there Nassar states (col. 6, lines 27-43):

Reservation module 12c **makes service requests on behalf of the user** (e.g., rental car pick up time, rescheduling, flight reservations, etc.).

**[0030]** The travel intelligence center (TIC) application server 16 is another software module (computer program). Typically, the computer on which software 16, 12a, 12b, 12c and 14 run is at the facility of the organization providing the travel information service described herein. This computer is in communication via the Internet and/or dedicated telephone lines with the travel information databases 10 which are typically maintained at other locations. It is well-known, of course, to interface with these travel information databases 10 via the Internet or other means, such as travel agents do now. The computer on which the TIC applications server 16 and the other software modules run is not shown.

As can be seen, this cited passage – which is being used by the Examiner as teaching both the automatic downstream segment alteration as well as modifying travel accommodations *in accordance with the altered downstream segments* – merely describes ‘making service requests on behalf of the user’. Such user-assistance in making service requests does not teach a dynamic itinerary monitoring system that performs *both*: (i) downstream segments being altered (automatically), *and* (ii) travel accommodations are also modified *in accordance with such altered downstream segments*. Thus, it is urged that Claim 1 has been erroneously rejected as a proper prima facie showing of obviousness has not been established by the Examiner<sup>1</sup>.

Still further, none of the cited references teach or suggest the *use of time-related information in a rule to automatically alter downstream segments of a travel plan*, as per the features of Claim 1. The Examiner acknowledges that neither Nassar nor Anderson nor Lee teaches such claimed feature, but states that Lee discloses time-based information. It is urged that Lee describes a tolerance variable which defines what constitutes an official delay *for which a user is notified* (Lee page 5, paragraphs [0059]), but the *particular usage of time-related information as claimed is not described by any of the cited references*. For example, none of the cited references teach the *use of time-related information to trigger an automatic altering of downstream segments of a travel plan*. Instead, the combined teachings of the cited references results in time being used to notify a user of a change in status (akin to the claimed ‘real-time change in status’), with the user then manually making the actual changes themselves to their travel plan – albeit with assistance being provided by an assist function (as per Nassar). Thus, it is further urged that Claim 1 has been erroneously rejected as a proper prima facie showing of obviousness has not been established by the Examiner.

Still further with respect to Claim 1, it is urged that due to the numerous number of references being combined – in this case four (4) different references – the Examiner is using Applicants’ own claims as a blueprint to piece together a showing of obviousness. It is error to reconstruct the patentee’s claimed invention from the prior art by using the patentee’s claims as a “blueprint”. When prior art references require selective combination to render obvious a subsequent invention, there must be some

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<sup>1</sup> In rejecting claims under 35 U.S.C. Section 103, the Examiner bears the initial burden of presenting a prima facie case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). Only if that burden is met, does the burden of coming forward with evidence or argument shift to the applicant. *Id.* To establish prima facie obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art. MPEP 2143.03. *See also, In re Royka*, 490 F.2d 580 (C.C.P.A. 1974). If the Examiner fails to establish a prima facie case, the rejection is improper and will be overturned. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In the absence of a proper *prima facie* case of obviousness, an applicant who complies with the other statutory requirements is entitled to a patent. *See In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992).

reason for the combination other than the hindsight obtained from the invention itself. *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 227 USPQ 543 (Fed. Cir. 1985). For example, assuming arguendo that the cited Anderson reference teaches rules, and the cited Lee reference teaches time-based criteria used to notify a user of an event, a person of ordinary skill in the art would not have been motivated to include Lee's time-based notification criteria in the Anderson rules, as the Anderson's time-related rules are used for a different purpose. Specifically, *Anderson's time-related rules are used to define what must be followed in carrying out various functions* (Anderson page 2, paragraph [0017]). For example, an Anderson rule may define limits concerning times of the day when the user does not want to be bothered (Anderson page 2, paragraph [0023]). Because the Anderson rules define required actions that must be followed, there would be no reason to include in such required-actions rules any time-related information that defines 'when' to automatically alter a travel plan's downstream segments, as Anderson's rules are used for a different purpose – as they define 'what' must be followed. Restated, the Anderson rules are used to define prerequisite conditions that must occur, with the current time being a criterion that must be met to determine whether it is OK to contact an individual. The Anderson rules themselves are not used to trigger or initiate an action, as claimed. Therefore, a person of ordinary skill in the art would not have been motivated to combine Bekkers' time-related information in an Anderson rule to result in a triggering action, as Anderson's time-related rules are used for an entirely different purpose. Thus, the only motivation for combining these references must be coming from Applicants' own Specification/Claims, which is impermissible hindsight analysis.

Further with respect to Claim 13, such claim recites "sending a notification to a communication device associated with the user indicating the altered downstream segments of the travel plan and the modified travel accommodations". As can be seen, this claim is directed to a notification feature, and the notification feature is with respect two items: (i) altered downstream segments of the travel plan, and (ii) modified travel accommodations. It is urged that none of the cited references teach or suggest such two-pronged notification. In rejecting Claim 13, the Examiner states that all features of Claim 13 are taught by Nassar at Figure 1; col. 3, lines 9-12; and col. 11, lines 1-15. Applicants urge that, to the contrary, these passages describe a *status change* that has occurred to an existing itinerary, such as a delayed or cancelled flight (Nassar col. 3, lines 9-12) and this is not any notice directed to downstream segment of a *travel plan* having then been *altered* in response to such status change, or travel accommodations that have been *modified* in accordance with such altered downstream segments. At best, the status change notice as provided by Nassar is somewhat akin to a notice regarding the claimed 'real-time change in status'. However, this claimed 'real-time change in status' is very different from the claimed 'downstream segments' of a travel plan being automatically altered, as the claimed 'downstream segments' are a separately claimed feature and are automatically altered *in response to* such 'real-time

change in status’. The notification feature of Claim 13 is with respect to the *altered* downstream segments that were *automatically altered in response to a change in status*. Nassar merely provides notification of the *change in status itself*. None of the cited references teach or suggest a notification pertaining to an automatically altered segments of a travel plan that occur in response to a change in status to a prearranged travel plan, nor a notification pertaining to modified travel accommodations that are negotiated without involvement of the user that are made in accordance with the automatically altered downstream segments, as claimed. Thus, Claim 13 has been erroneously rejected as a proper prima facie showing of obviousness has not been established with respect to such claim. Applicants have amended Claim 1 to include these Claim 13 features in order to expeditiously place this case in condition for allowance.

Applicants traverse the rejection of the remaining claims for similar reasons to those given above with respect to Claims 1 and 13.

Therefore, the rejection of Claims 1-4, 8-11, 13-15, 19-22, 24-26 and 28-29 under 35 U.S.C. § 103 has been overcome.

### **III. 35 U.S.C. § 103, Obviousness**

Claims 12 and 23 stand rejected under 35 U.S.C. § 103 as being unpatentable over Nassar, European Patent Application No. EP 1096405 A2 in view of Anderson et al. (U.S. Publication No. 2002/0178226), hereinafter “Anderson” in view of Lee et al. (U.S. Patent No. 6,263,358), hereinafter “Lee” and further in view of Zobel et al., (U.S. Patent No. 6,606,553), hereinafter “Zobel”. This rejection is respectfully traversed for similar reasons to those given above with respect to Claim 1, as the newly cited Zobel reference does not overcome the teaching/suggestion deficiency identified above with respect to Claim 1.

Therefore, the rejection of Claims 12 and 23 under 35 U.S.C. § 103 has been overcome.

**IV. Conclusion**

It is respectfully urged that the subject application is patentable over the cited references and is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,

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